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INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA A/S/O AVON
PRODUCTS, INC.,

Civil Action No.

Plaintiff,

vs.

COMPLAINT

ARROWPAC CFS, INC., SEA STAR LINE,
LLC d/b/a TOTE MARITIME PUERTO RICO
and TOTE SERVICES, INC.,

Defendants.
-----X

Plaintiff, INDEMNITY INSURANCE COMPANY OF NORTH AMERICA ("IINA"), as subrogee of AVON PRODUCTS, INC., by and through its attorneys, RUBIN, FIORELLA & FRIEDMAN LLP, as and for its complaint against defendants ARROWPAC CFS, INC., SEA STAR LINE, LLC d/b/a TOTE MARITIME PUERTO RICO (hereinafter "TOTE PR") and TOTE SERVICES, INC. (hereinafter "TOTE"), alleges upon information and belief, as follows:

1. At all times hereinafter mentioned, plaintiff IINA was and now is a corporation or other business entity organized and existing by virtue of the laws of the Commonwealth of

Pennsylvania, with an office and principal place of business at 436 Walnut Street, Philadelphia, PA 19106.

2. IINA is the shipper, consignee, owner or insurer of the shipment at issue herein, and brings this action on its own behalf and as agent and trustee on behalf of and for the interests of all parties who may be or become interested in the shipment, as their respective interests may ultimately appear, and IINA is entitled to maintain this action.
3. At all times hereinafter mentioned, defendant, ARROWPAC CFS, INC., (“ARROWPAC”) was and now is a corporation or other business entity organized and existing by virtue of the laws of the State of New Jersey, with an office and principal place of business at 630 New Country Road, Secaucus, NJ 07094, and was and is still doing business within the jurisdiction of this Honorable Court as a common carrier and/or bailee of merchandise for hire in interstate and international commerce.
4. At all times hereinafter mentioned, defendant, SEA STAR LINE, LLC, d/b/a TOTE MARITIME PUERTO RICO (“TOTE PR”) was and now is a corporation or other business entity organized and existing by virtue of the laws of the State of Delaware, with an office and principal place of business at 10550 Deerwood Park Blvd, Suite 509 in Jacksonville, FL 32256, and was and is still doing business within the jurisdiction of this Honorable Court as a common carrier and/or bailee of merchandise for hire in interstate and international commerce.
5. At all times hereinafter mentioned, defendant, TOTE SERVICES, INC., (“TOTE”) was and now is a corporation or other business entity organized and existing by virtue of the laws of the State of Delaware, with an office and principal place of business at 10550 Deerwood Park Blvd, Suite 602 in Jacksonville, FL 32256, and was and is still doing

business within the jurisdiction of this Honorable Court as a common carrier and/or bailee of merchandise for hire in interstate and international commerce.

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332, by virtue of the diversity of the citizenship of the parties hereto, with the amount in controversy exceeding the sum of \$75,000.
7. This Court has jurisdiction over this action based on a forum selection clause in a term sheet prepared by ARROWPAC.
8. This is an admiralty and maritime dispute within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and within the Court's admiralty jurisdiction pursuant to Article III, Section 2 of the Constitution of the United States and 28 U.S.C. § 1333.
9. On or about November 25, 2015, AVON PRODUCTS, INC. ("AVON") delivered to ARROWPAC, for good and valuable consideration, a shipment of 626 packages of miscellaneous AVON products in good order and condition, valued at \$81,400.29 (the "shipment"), suitable in every respect for the intended transit for which ARROWPAC received, accepted and agreed to transport, by its employees, agents or servants, from Zanesville, Ohio to Caguas, Puerto Rico.
10. Upon information and belief, ARROWPAC contracted with TOTE and/or TOTE PR to transport the shipment by sea to Puerto Rico.
11. Upon information and belief, TOTE and/or TOTE PR loaded the shipment onto the COLUMBIA ELIZABETH, a container barge. On December 6, 2015, the COLUMBIA ELIZABETH reportedly lost 25 containers in the Atlantic Ocean between Cape Canaveral and Port Saint Lucie, Florida. AVON's shipment was loaded onto one of the containers that were lost at sea, and was never recovered.

12. By reason of the premises, ARROWPAC breached, failed and violated its duties and obligations as a common carrier and/or bailee, by negligently discharging, storing, guarding and/or caring for the shipment described herein, and, by failing to perform its services in a proper and workmanlike manner, and breached its express and implied warranties of workmanlike service.
13. By reason of the premises, TOTE breached, failed and violated its duties and obligations as a common carrier and/or bailee, by negligently discharging, storing, guarding and/or caring for the shipment described herein, failing to perform its services in a proper and workmanlike manner, and breached its express and implied warranties of workmanlike service.
14. By reason of the premises, TOTE PR breached, failed and violated its duties and obligations as a common carrier and/or bailee, by negligently discharging, storing, guarding and/or caring for the shipment described herein, failing to perform its services in a proper and workmanlike manner, and breached its express and implied warranties of workmanlike service.
15. Plaintiff has duly performed all duties and obligations on its part to be performed.
16. By reason of the premises, plaintiff has sustained damages or nearly as same now can be estimated, no part of which has been paid, although duly demanded, in the amount of \$81,400.29.

WHEREFORE, plaintiff INDEMNITY INSURANCE COMPANY OF NORTH AMERICA, respectfully requests the following:

- a. That a judgment be entered in favor of INDEMNITY INSURANCE COMPANY OF NORTH AMERICA against ARROWPAC CFS, INC., SEA STAR LINE, LLC d/b/a TOTE MARITIME PUERTO RICO, and TOTE SERVICES, INC. in

the amount of \$81,400.29, with interest, attorney fees and the costs and disbursements of this action; and

- b. For such other, additional, and further relief the Court deems just and equitable.

Dated: September 13, 2016
New York, New York

Respectfully submitted,

By:  _____

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